

June 4, 2004

Dear Idaho Department of Water Resources,

We are a group of District #34 water users. The majority of us have ground water rights. We have recently been informed, by IDWR, that mitigation will be called for by surface water right holders that have their diversion point at the Moore Diversion.

The District #34 Water Board Advisory Committee recently voted to lease a well in order to mitigate/directly augment these 1883, water rights. This letter is to inform the Idaho Department of Water Resources that we, as a group, do not agree with this decision.

The Advisory Committee is just that, an advisory committee. They are not a governing body. They have no mandate to set policy that has financial encumbrances on the District 34 water users. The decision of the Advisory Committee to lease this well is totally unacceptable. We do not support it.

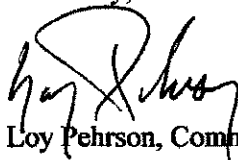
Idaho state water law is based on "First in time, first in right". Water is delivered down stream as far as it will reach. There is no provision that says one can pool his/her water with storage water to make delivery possible. This would be arbitrary, and is the case with the 1883 water being delivered to the Moore Diversion.

This valley is in the grip of a several years long drought, with 2004 being possibly the worst yet. The pumpers of the Big Lost River Basin are not responsible for the inability of the 1883 water rights to be delivered to the Moore Diversion. We do not have the burden of delivering this water right, through mitigation or augmentation.

The decision that should be made by IDWR, under these conditions of severe drought, is that it is futile to try to deliver these rights. There should be no additional mitigation, as both IDWR and the patrons of this basin have an agreed upon mitigation plan in place through recharge, and shrink in the canals and the Big Lost River. All attempts have been made to deliver these water rights to the extent possible.

Because there has been no adequate study of this basin and the interaction of the ground water/surface water connection, IDWR in cooperation with the water users of Basin #34 needs to implement further ground water/surface water studies to gain a better understanding of this connection. This should be undertaken in each reach of the valley. Until a reliable, science-based study of each reach in the valley is done, the burden of proof for a call for mitigation by a senior water right owner, as stated in Idaho law, has not been met.

Sincerely,



Loy Pehrson, Committee Chairman

Rt 1, Box 48

Darlington, ID 83255

208-588-3380



Dave Nelson, Vice Chairman

5688 Chilly Rd

Mackay, ID 83251

208-588-2805

Additional signatures attached. Also, due to the short amount of time allowed to submit this letter, we will be submitting added signatures until 6/20/04.

SINCERELY,

| SIGNATURE | PRINTED NAME | ADDRESS |
|------------------------------------|--------------------------|---------------------------------|
| 1. <u>Moh J Ellwein</u> | Moh J Ellwein | 4160 Houston Rd |
| 2. <u>Albert Fuller</u> | Albert Fuller | 3960N 3650W Darlington |
| 3. <u>Harry Crawford</u> | Harry Crawford | 3384 W 3800 N Darlington |
| 4. <u>Ken Buckwater</u> | Ken Buckwater | Box 216 Mackay |
| 5. <u>Donna Sammons</u> | Donna Sammons | 5457 Fish Hatch |
| 6. <u>Ronald Babineau</u> | RONALD BABINEAU | 4316 Houston Rd Mackay |
| 7. <u>Wendy Simmons POA</u> | Wendy Simmons | HC 63 Box 1552 CHARLES |
| 8. <u>Deborah Swenston</u> | Deborah Swenston | 5915 US Highway 93 |
| 9. <u>Bill Sayer</u> | BILL Sayer | Mackay Id Box 213 |
| 10. <u>Frances Sayer</u> | Frances Sayer | Mackay Id Box 213 |
| 11. <u>Evan Sayer</u> | Evan Sayer | Mackay Id 4201 N Hwy 93 |
| 12. <u>Charles Wilkins</u> | Charles Wilkins | 4905 Hwy 93 P.O. Box 596 Mac |
| 13. <u>Leon L Williams</u> | Leon L Williams | Box 1 Box 20 Darlington |
| 14. <u>L. Vernon Woodbury</u> | L. Vernon Woodbury | Box 1 Mackay, Id |
| 15. <u>Bob Pittman</u> | Bob Pittman | Box 595 MACKEY |
| 16. <u>Lloyd L Smith</u> | Lloyd L Smith | 4335 Houston Rd. Mackay |
| 17. <u>Shane Bradford</u> | Shane Bradford | Mackay Id |
| 18. <u>Debbie Johnson</u> | Debbie Johnson | 3776 W 3700 N Darlington 83255 |
| 19. <u>Watt Johnson</u> | WATT JOHNSON | 6139 Trail Creek Rd Mackay 832 |
| 20. <u>Shawn V Donahue</u> | Shawn V. Donahue | 6139 TRAIL CREEK RD MACK. |
| 21. <u>Be Clark</u> | Be Clark | 5440 Fish Hatchery Rd Mackay Id |
| 22. <u>Levene M. Clark</u> | Levene M. Clark | 3886 W 3700 N Moore 832 |
| 23. <u>Gary Kimball</u> | Gary Kimball | 3886 W. 3700 N. Moore 832 |
| 24. <u>Paul Smith</u> | Paul Smith | Mackay Id 840 |
| 25. <u>Levene</u> | Levene | Levene |

SINCERELY,

| SIGNATURE | PRINTED NAME | ADDRESS |
|----------------------------------|-----------------------|---|
| 1. <u>Theresa Landon</u> | TERESA LANDON | MACKEY, ID. 83251 |
| 2. <u>Scott Colson</u> | F. Scott Colson | Box 173, Mackay Id. 83251 |
| 3. <u>Terry V. Monsen</u> | TERRY V. MONSEN | 4050N 3626 W MAORE Id 83251 |
| 4. <u>Richard Cole</u> | Richard Cole | RT 1 Darlington 83255- |
| 5. <u>John Powers</u> | JOHN POWERS | 211 N O'Meara Mackay Id 83251 |
| 6. <u>Keith D. Lewis</u> | KEITH D. LEWIS | 4157N 3600 W ⁵⁸⁸ 843B Darlington |
| 7. <u>Scott McAfee</u> | Scott McAfee | 4748 old Loop Rd. Mackay, ID 83251 |
| 8. <u>Robert Nielson</u> | Robert Nielson | 4133 Hwy 93 N Leslie Id 83251 |
| 9. <u>M. J. Dotzenrod</u> | M. J. Dotzenrod | 2776 W 3700N Darlington |
| 10. <u>Anthony Alos</u> | Anthony Alos | 4125 4106 MACKEY 83251 |
| 11. <u>Logan Williams</u> | Logan Williams | Box 96 Mackay Id 83251 |
| 12. <u>Lin F. Hintze</u> | Lin F. Hintze | P.O. Box 175 Mackay Id 83251 |
| 13. <u>Dan Land</u> | Dan Land | 4266 N 4600 W |
| 14. <u>Maurice H. Anderson</u> | Maurice H. Anderson | P.O. Box 111, Arco, Id 83251 |
| 15. <u>Lester K. Rosenkrance</u> | Lester K. Rosenkrance | P.O. Box 9 Mackay, Id 83251 |
| 16. <u>Randy Peterson</u> | Randy Peterson | Rt 1 Box 37 Darlington 83251 |
| 17. <u>Josh Peterson</u> | Josh Peterson | Rt 7 Box 32, Darlington 83251 |
| 18. <u>Peggy Peterson</u> | Peggy Peterson | Rt 1 Box 32 Darlington 83251 |
| 19. _____ | _____ | _____ |
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Rt 1, Box 48
Darlington, ID 83255

Phone: 208-588-3380
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Fax

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|---------------|--|---------------|---------------------------|
| To: | Tim Luke | From: | Loy Pehrson & Dave Nelson |
| Fax: | 208-327-7866 | Date: | June 4, 2004 |
| Phone: | 208-327-7900 | Pages: | 4 |
| Re: | Letter concerning mitigation in Basin 34 | | |
| CC: | Karl Dreher & Tim Luke | | |

☒ **Urgent** ☐ **For Review** **Please Comment** ☒ **Please Reply** ☐ **Please Recycle**

•Comments: Dear Mr. Dreher,

We have also sent the attached letter to you in a certified letter through the USPS. We respectfully request that you respond, in writing, to the attached fax by 6/15/04.

Please send response to:

Loy Pehrson

Rt. 1, Box 48

Darlington, ID 83255